

117TH CONGRESS  
1ST SESSION

# H. R. 4681

To amend the Immigration and Nationality Act to establish a new class of nonimmigrant visas for entrepreneurs and essential employees affiliated with start-up entities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2021

Ms. LOFGREN introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to establish a new class of nonimmigrant visas for entrepreneurs and essential employees affiliated with start-up entities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Let Immigrants  
5 Kickstart Employment Act of 2021” or the “LIKE Act”.

6       **SEC. 2. W VISAS.**

7       Section 101(a)(15) of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1101(a)(15)) is amended—

1                             (1) in subparagraph (U)(iii), by striking “or”  
2                             at the end;

3                             (2) in subparagraph (V)(ii)(II), by striking the  
4                             period at the end and inserting “; or”; and

5                             (3) by adding at the end the following:

6                                 “(W) START-UP ENTITIES.—

7                                 “(i) ENTREPRENEURS.—Subject to  
8                                 section 218A(a), an alien who is an entre-  
9                                 preneur with an ownership interest in a  
10                                 start-up entity.

11                                 “(ii) EMPLOYEES.—Subject to section  
12                                 218A(b), an alien who is or will be an es-  
13                                 sential employee of a start-up entity.

14                                 “(iii) DERIVATIVES.—Subject to sec-  
15                                 tion 218A(c), the spouse or child of an  
16                                 alien described in clause (i) or (ii) who is  
17                                 accompanying, or following to join, the  
18                                 alien.”.

19 **SEC. 3. START-UP ENTITIES; NONIMMIGRANT ENTRE-  
20 PRENEURS AND EMPLOYEES.**

21                             Chapter 2 of title II of the Immigration and Nation-  
22 ality Act (8 U.S.C. 1181 et seq.) is amended by adding  
23 after section 218 the following:

**4        "(a) NONIMMIGRANT ENTREPRENEURS.—**

5                 “(1) IN GENERAL.—The Secretary shall estab-  
6                 lish procedures for an alien to self-petition for classi-  
7                 fication as a nonimmigrant under section  
8                 101(a)(15)(W)(i). Status under such section shall be  
9                 valid for an initial period of 3 years and may be ex-  
10                 tended thereafter in accordance with this subsection.  
11                 The Secretary may approve the petition of an alien  
12                 for initial classification as such a nonimmigrant if  
13                 the Secretary determines—

14               “(A) the alien possesses an ownership in-  
15               terest in a start-up entity of not less than 10  
16               percent;

17                         “(B) the alien will play a central and ac-  
18                         tive role in the management or operations of  
19                         the start-up entity;

20                         “(C) the alien possesses the knowledge,  
21 skills, or experience to substantially assist the  
22 start-up entity with the growth and success of  
23 its business; and

“(D) subject to paragraph (4), the start-up entity, during the 18-month period preceding the filing of the petition, received—

1                         “(i) at least \$250,000 in qualifying  
2                         investments from one or more qualified in-  
3                         vestors; or

4                         “(ii) at least \$100,000 in qualifying  
5                         government awards or grants.

6                 “(2) 3-YEAR EXTENSION ELIGIBILITY CRI-  
7                 TERIA.—The Secretary may approve a petition to  
8                 extend the status of an alien as a nonimmigrant  
9                 under section 101(a)(15)(W)(i) for an additional 3-  
10                 year period, if the Secretary determines—

11                 “(A) the alien—

12                         “(i) possesses an ownership interest of  
13                         not less than 5 percent in the start-up en-  
14                         tity that formed the basis for the alien’s  
15                         initial petition for classification as a non-  
16                         immigrant under section 101(a)(15)(W)(i);  
17                         and

18                         “(ii) will continue to play a central  
19                         and active role in the management or oper-  
20                         ations of the start-up entity; and

21                 “(B) subject to paragraph (4), during the  
22                 alien’s initial period of status as a non-  
23                 immigrant under section 101(a)(15)(W)(i), the  
24                 start-up entity—

1                         “(i) received at least \$500,000 in ad-  
2                         ditional qualifying investments from one or  
3                         more qualified investors, qualifying govern-  
4                         ment awards or grants, or a combination  
5                         of such funding;  
6                         “(ii) created at least 5 qualified jobs;  
7                         or  
8                         “(iii) generated not less than  
9                         \$500,000 in annual revenue in the United  
10                         States and averaged 20 percent in annual  
11                         revenue growth.

12                         “(3) ADDITIONAL EXTENSIONS IN 1-YEAR IN-  
13                         CREMENTS.—With respect to an alien whose status  
14                         as a nonimmigrant under section 101(a)(15)(W)(i)  
15                         was extended under paragraph (2), the Secretary  
16                         may approve a petition to further extend such status  
17                         in 1-year increments, for up to 2 years, if the Sec-  
18                         retary determines—

19                         “(A) the alien—  
20                         “(i) possesses an ownership interest in  
21                         the start-up entity that formed the basis  
22                         for the alien’s initial petition for classifica-  
23                         tion as a nonimmigrant under section  
24                         101(a)(15)(W)(i); and

1                         “(ii) will continue to play a central  
2                         and active role in the management or oper-  
3                         ations of the start-up entity; and

4                         “(B) the start-up entity has made substan-  
5                         tial progress in satisfying the requirements  
6                         under paragraphs (2) and (3) of section  
7                         218B(c) and is reasonably expected to satisfy  
8                         such requirements within the 1 year period fol-  
9                         lowing the expiration of the alien’s status as a  
10                         nonimmigrant under section 101(a)(15)(W)(i).

11                         “(4) OTHER COMPARABLE EVIDENCE.—The  
12                         Secretary may grant a petition to classify an alien  
13                         as a nonimmigrant under section 101(a)(15)(W)(i) if  
14                         the start-up entity partially meets one or more of  
15                         the criteria described in paragraphs (1)(D) or (2)(B)  
16                         and the Secretary determines, based on other reli-  
17                         able and compelling evidence, that the start-up enti-  
18                         ty has substantial potential for rapid growth and job  
19                         creation.

20                         “(5) REPORTING OF MATERIAL CHANGES.—

21                         “(A) IN GENERAL.—An alien with status  
22                         under section 101(a)(15)(W)(i) shall imme-  
23                         diately notify the Secretary in writing, in ac-  
24                         cordance with procedures established by the  
25                         Secretary, if he or she will no longer play a cen-

1           tral and active role in the management or oper-  
2           ations of the start-up entity or ceases to possess  
3           a qualifying ownership interest in the start-up  
4           entity.

5           “(B) QUALIFYING OWNERSHIP INTER-  
6           EST.—For purposes of subparagraph (A), the  
7           alien will cease to possess a qualifying owner-  
8           ship interest in the start-up entity if—

9                 “(i) during the initial 3-year period of  
10               status described under paragraph (1), the  
11               alien’s ownership interest falls below 5 per-  
12               cent; or

13                 “(ii) during the periods of status de-  
14               scribed under paragraphs (2) or (3), the  
15               alien ceases to maintain any ownership in-  
16               terest.

17           “(6) CLARIFICATION.—With respect to an alien  
18           who establishes a qualifying ownership interest in a  
19           start-up entity and is otherwise eligible for status  
20           under section 101(a)(15)(W)(i) based on such own-  
21           ership, the Secretary shall grant the alien such sta-  
22           tus in accordance with this subsection notwith-  
23           standing any time previously spent in such status  
24           with a different start-up entity.

25           “(b) NONIMMIGRANT ESSENTIAL EMPLOYEES.—

1                 “(1) IN GENERAL.—The Secretary shall estab-  
2         lish procedures for a start-up entity that serves as  
3         the basis for an approved petition under subsection  
4         (a) to file a petition to classify an alien as a non-  
5         immigrant under section 101(a)(15)(W)(ii). Status  
6         under such section shall be valid for an initial period  
7         of 3 years and may be extended thereafter in accord-  
8         ance with paragraph (3). The Secretary may ap-  
9         prove the petition of an alien for initial classification  
10         as such a nonimmigrant if the Secretary determines  
11         the alien—

12                 “(A) has an offer from the start-up entity  
13         for employment in an executive capacity or  
14         managerial capacity; and

15                 “(B) possesses knowledge, skills, or experi-  
16         ence that are essential to the growth and suc-  
17         cess of the start-up entity.

18                 “(2) NUMERICAL LIMITATIONS.—The number  
19         of aliens with status under section 101(a)(15)(W)(ii)  
20         that may be employed by a start-up entity at any  
21         one time may not exceed—

22                 “(A) 2 such aliens if such entity has 10 or  
23         fewer full-time employees in the United States;

1                 “(B) 3 such aliens if such entity has at  
2                 least 11 and not more than 30 full-time employ-  
3                 ees in the United States;

4                 “(C) 4 such aliens if such entity has at  
5                 least 31 and not more than 70 full-time employ-  
6                 ees in the United States; and

7                 “(D) 5 such aliens if such entity has more  
8                 than 70 full-time employees in the United  
9                 States.

10                 “(3) 3-YEAR EXTENSION.—The Secretary may  
11                 approve a petition to extend the status of an alien  
12                 as a nonimmigrant under section 101(a)(15)(W)(ii)  
13                 for an additional 3-year period, if the Secretary de-  
14                 termines the alien continues to meet the criteria for  
15                 initial classification as such a nonimmigrant de-  
16                 scribed in paragraph (1).

17                 “(4) TERMINATION OF ELIGIBILITY TO PETI-  
18                 TION FOR W-2 NONIMMIGRANTS.—A start-up entity’s  
19                 eligibility to submit new petitions for aliens under  
20                 paragraph (1) shall terminate on the date the start-  
21                 up entity no longer serves as the basis for status of  
22                 nonimmigrants under section 101(a)(15)(W)(i).

23                 “(c) SPOUSES AND CHILDREN.—

24                 “(1) IN GENERAL.—The spouse and children  
25                 accompanying or following to join an alien with sta-

1       tus as a nonimmigrant under clause (i) or (ii) of sec-  
2       tion 101(a)(15)(W) shall be entitled to classification  
3       as nonimmigrants under clause (iii) of such section.

4                 “(2) EMPLOYMENT AUTHORIZATION.—In the  
5       case of an alien spouse with status as a non-  
6       immigrant under section 101(a)(15)(W)(iii), the  
7       Secretary shall authorize such spouse to engage in  
8       employment in the United States and provide the  
9       spouse with an ‘employment authorized’ endorse-  
10      ment or other appropriate work permit.

11                 “(d) TERMINATION OF NONIMMIGRANT STATUS.—

12                 “(1) IN GENERAL.—The Secretary shall provide  
13       written notice of the Secretary’s intent to terminate  
14       status under clause (i) or (ii) of section  
15       101(a)(15)(W) if the Secretary has reasonable  
16       grounds to believe that—

17                 “(A) the facts or information contained in  
18       the petition for such status were not true and  
19       accurate;

20                 “(B) the alien failed to timely file or other-  
21       wise comply with the material change reporting  
22       requirement in subsection (a)(5), if applicable;  
23       or

24                 “(C) the petition was erroneously granted.

1           “(2) NOTICE AND DECISION.—A notice of in-  
2       tent to terminate issued under paragraph (1) shall  
3       identify the grounds for termination and provide at  
4       least 60 days for the alien to submit rebuttal evi-  
5       dence.

6           “(e) GRACE PERIOD.—An alien admitted or other-  
7       wise provided status under section 101(a)(15)(W) shall be  
8       considered to be maintaining such status for a period of  
9       not less than 60 days upon expiration or termination of  
10      such status.

11          “(f) DUAL INTENT.—Notwithstanding section  
12      214(b), an alien may obtain a visa or be granted status  
13      under section 101(a)(15)(W) even if such alien intends to  
14      seek lawful permanent resident status in the United  
15      States.

16          “(g) DEFINITIONS.—In this section:

17           “(1) EXECUTIVE CAPACITY.—The term ‘execu-  
18       tive capacity’ has the meaning given such term in  
19       section 101(a)(44)(B).

20           “(2) FULL-TIME EMPLOYEE.—The term ‘full-  
21       time employee’ means an individual performing serv-  
22       ices in a position that requires a minimum of 35  
23       working hours per week, and does not include inde-  
24       pendent contractors or combinations of part-time  
25       employees.

1           “(3) MANAGERIAL CAPACITY.—The term ‘man-  
2       agerial capacity’ has the meaning given such term in  
3       section 101(a)(44)(A).

4           “(4) QUALIFIED INVESTOR.—

5           “(A) IN GENERAL.—Except as provided in  
6       subparagraph (B) and consistent with subpara-  
7       graph (C), the term ‘qualified investor’  
8       means—

9           “(i) an individual who is a United  
10       States citizen or lawful permanent resident  
11       of the United States; or

12           “(ii) an organization that is located in  
13       the United States and operates through a  
14       legal entity that has its principal place of  
15       business in the United States, that is ma-  
16       jority owned and controlled by United  
17       States citizens or lawful permanent resi-  
18       dents of the United States,

19       which individual or organization regularly  
20       makes substantial investments in start-up enti-  
21       ties that subsequently exhibit substantial  
22       growth in revenue generation or job creation.

23           “(B) EXCEPTIONS.—The term ‘qualified  
24       investor’ does not include an individual or orga-  
25       nization that has been—

1                     “(i) permanently or temporarily en-  
2                     joined from participating in the offer or  
3                     sale of a security or in the provision of  
4                     services as an investment adviser, broker,  
5                     dealer, municipal securities dealer, govern-  
6                     ment securities broker, government securi-  
7                     ties dealer, bank, transfer agent or credit  
8                     rating agency;

9                     “(ii) barred from association with any  
10                   entity involved in the offer or sale of secu-  
11                   rities or the provision of such services; or

12                     “(iii) otherwise found to have partici-  
13                     pated in the offer or sale of securities or  
14                     the provision of such services in violation  
15                     of law.

16                     “(C) SUBSTANTIAL INVESTMENT HIS-  
17                     TORY.—An individual or organization shall be  
18                     considered to regularly make substantial invest-  
19                     ments in start-up entities that subsequently ex-  
20                     hibit substantial growth in revenue generation  
21                     or job creation if—

22                     “(i) during the preceding 5 years, the  
23                     individual or organization invested a total  
24                     of not less than \$600,000 in start-up enti-  
25                     ties in exchange for equity, convertible

1                   debt, or other security convertible into eq-  
2                   uity commonly used in financing trans-  
3                   actions within their respective industries;  
4                   and

5                   “(ii) subsequent to such investment,  
6                   at least 2 such entities each created at  
7                   least 5 qualified jobs or generated at least  
8                   \$500,000 in revenue with average  
9                   annualized revenue growth of at least 20  
10                  percent.

11                  “(5) **QUALIFIED JOB.**—The term ‘qualified job’  
12                  means a job located in the United States that re-  
13                  quires a minimum of 35 working hours per week  
14                  that has been filled for at least 1 year by one or  
15                  more qualifying employees.

16                  “(6) **QUALIFYING EMPLOYEE.**—The term  
17                  ‘qualifying employee’ means a United States citizen,  
18                  a lawful permanent resident, or other immigrant  
19                  lawfully authorized to be employed in the United  
20                  States. Such term does not include independent con-  
21                  tractors, nonimmigrant entrepreneurs or essential  
22                  start-up employees of the start-up entity, or the par-  
23                  ents, spouses, brothers, sisters, sons, or daughters of  
24                  such nonimmigrant entrepreneurs.

1           “(7) QUALIFYING GOVERNMENT AWARD OR  
2        GRANT.—The term ‘qualifying government award or  
3        grant’ means an award or grant for economic devel-  
4        opment, research and development, or job creation  
5        (or other similar monetary award typically given to  
6        start-up entities) made by a Federal, State, or local  
7        government entity (not including foreign government  
8        entities) that regularly provides such awards or  
9        grants to start-up entities. The term does not in-  
10      clude any contractual commitment for goods or serv-  
11      ices.

12           “(8) QUALIFYING INVESTMENT.—

13           “(A) IN GENERAL.—The term ‘qualifying  
14        investment’ means an investment of lawfully de-  
15        rived capital made in good faith in a start-up  
16        entity that is a purchase from such entity of its  
17        equity, convertible debt, or other security con-  
18        vertible into its equity that is or becomes com-  
19        monly used in financing transactions within  
20        such entity’s industry.

21           “(B) EXCLUSIONS.—The term ‘qualifying  
22        investment’ does not include a direct or indirect  
23        investment from the entrepreneur, the parents,  
24        spouse, brother, sister, son, or daughter of such  
25        entrepreneur, or any corporation, limited liabil-

1           ity company, partnership, or other entity in  
2           which such entrepreneur or the parents, spouse,  
3           brother, sister, son, or daughter of such entre-  
4           preneur has any direct or indirect ownership in-  
5           terest.

6           “(9) SECRETARY.—The term ‘Secretary’ means  
7           the Secretary of Homeland Security.

8           “(10) START-UP ENTITY.—The term ‘start-up  
9           entity’ means a United States business entity that  
10          has lawfully conducted business during any period of  
11          operation since its formation, and that was formed  
12          within the 5-year period immediately preceding the  
13          date the alien files a petition for classification under  
14          section 101(a)(15)(W)(i).

15          “(11) UNITED STATES BUSINESS ENTITY.—The  
16          term ‘United States business entity’ means any cor-  
17          poration, limited liability company, partnership, or  
18          other entity that is organized under Federal law or  
19          the laws of any State, and that conducts business in  
20          the United States, that is not an investment vehicle  
21          primarily engaged in the offer, purchase, sale or  
22          trading of securities, futures contracts, derivatives or  
23          similar instruments.

1     **“SEC. 218B. ADMISSION OF IMMIGRANT ENTREPRENEURS.**

2         “(a) IN GENERAL.—The Secretary shall establish  
3     procedures for an alien who is eligible under subsection  
4     (c) to self-petition for classification as an immigrant entre-  
5     preneur.

6         “(b) EXCLUSION FROM NUMERICAL LIMITATIONS.—  
7     An alien classified as an immigrant entrepreneur under  
8     this section, and the spouse and children of such alien,  
9     shall be immediately eligible for immigrant visas and such  
10    visas shall not be subject to or counted against the numer-  
11    ical limitations under section 201, 202, or 203.

12         “(c) ELIGIBILITY CRITERIA.—The Secretary may ap-  
13    prove a petition filed by an alien for classification as an  
14    immigrant entrepreneur under this section if the Secretary  
15    determines—

16             “(1) the alien—

17                 “(A) is present in the United States and  
18                 has maintained status as a nonimmigrant under  
19                 section 101(a)(15)(W)(i) or other non-  
20                 immigrant status that forms the basis for em-  
21                 ployment with a start-up entity (as such term  
22                 is defined in section 218A(g)(10));

23                 “(B) has maintained an ownership interest  
24                 in the start-up entity since its formation; and

1               “(C) plays an active and central role in the  
2               management or operations of the start-up enti-  
3               ty;

4               “(2) the start-up entity has created at least 10  
5               qualified jobs (as such term is defined in section  
6               218A); and

7               “(3) the start-up entity has—

8               “(A) raised not less than a total of  
9               \$1,250,000 in qualifying investments, quali-  
10               fying government grants or awards, or a com-  
11               bination of such funding; or

12               “(B) generated not less than \$1,000,000  
13               in annual revenue in the United States in the  
14               2-year period preceding the filing of the peti-  
15               tion.

16               “(d) IMMIGRANT VISA PROCESSING OR ADJUSTMENT  
17               OF STATUS.—An alien classified as an immigrant entre-  
18               preneur under this section, and the spouse and children  
19               of such alien, may apply for an immigrant visa in accord-  
20               ance with the procedures described in section 221 or for  
21               adjustment of status under section 245 if such individuals  
22               are otherwise eligible for adjustment of status.

23               **“SEC. 218C. INFLATION ADJUSTMENT; FEES.**

24               “(a) INFLATION ADJUSTMENT.—The Secretary may  
25               adjust the monetary amounts described in paragraphs

1 (1)(D) and (2)(B) of section 218A(a) and section  
2 218B(c)(3) on a biennial basis by the percentage (if any)  
3 by which the Consumer Price Index for All Urban Con-  
4 sumers for the month of June preceding the date on which  
5 such adjustment takes effect exceeds the Consumer Price  
6 Index for All Urban Consumers for the same month of  
7 the second preceding calendar year. Any such increase  
8 shall apply to aliens filing petitions on or after the date  
9 on which the increase takes effect.

10       “(b) FEES.—

11           “(1) IN GENERAL.—The Secretary may require  
12       an alien petitioning or applying for any benefit  
13       under section 218A or 218B to pay a reasonable fee  
14       that is commensurate with the cost of processing the  
15       petition or application.

16           “(2) SUPPLEMENTAL FEE FOR STEM SCHOLAR-  
17       SHIPS.—In addition to any required processing fee,  
18       the Secretary shall collect a \$1,000 fee in connection  
19       with each petition for classification as a non-  
20       immigrant under section 101(a)(15)(W)(i) or as an  
21       immigrant under section 219B. Such funds shall be  
22       made available to programs described in section  
23       286(s)(3).

24           “(3) PREMIUM PROCESSING.—Subject to any  
25       reasonable conditions, the Secretary shall establish

1 premium processing procedures for petitions or ap-  
2 plications filed under sections 218A and 218B in ac-  
3 cordance with section 286(u) and the Emergency  
4 Stopgap USCIS Stabilization Act (Public Law No.  
5 116–159, Div. D, Title I).”.

6 **SEC. 4. RULEMAKING.**

7 (a) IN GENERAL.—Not later than 180 days after the  
8 date of the enactment of this Act, the Secretary, in con-  
9 sultation with the Secretary of State and the Secretary  
10 of Commerce, shall publish in the Federal Register, an  
11 interim final rule implementing the provisions of this Act.  
12 Notwithstanding section 553 of title 5, United States  
13 Code, the rule shall be effective, on an interim basis, im-  
14 mediately upon publication, but may be subject to change  
15 and revision after public notice and opportunity for com-  
16 ment. The Secretary shall finalize such rule not later than  
17 1 year after the date of the enactment of this Act.

18 (b) DESIGNATED QUALIFIED INVESTORS.—The rules  
19 described in subsection (a) shall include—

20 (1) procedures for individuals and organizations  
21 to request designation as qualified investors (as such  
22 term is defined in section 218A(g) of the Immigra-  
23 tion and Nationality Act); and  
24 (2) streamlined filing procedures for petitions  
25 to classify an alien as an nonimmigrant under sec-

1       tion 101(A)(15)(W)(i) of the Immigration and Na-  
2       tionality Act (8 U.S.C. 1101(a)(15)(W)(i)) or as an  
3       immigrant under section 218B of such Act based on  
4       such alien founding a start-up entity that has re-  
5       ceived investment capital from one or more qualified  
6       investors that have been designated as such pursu-  
7       ant to the procedures described in paragraph (1).

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